

IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA

MARCUS D. WOODSON,)	
)	
Plaintiff,)	
vs.)	NO. CIV-05-222-D
)	
GARFIELD COUNTY SHERIFF'S)	
DEPARTMENT, et al.,)	
)	
Defendants.)	

ORDER

Plaintiff, who is now in the custody of the Oklahoma Department of Corrections, filed this action while he was a pretrial detainee in the Garfield County Detention Center. Appearing *pro se*, the plaintiff brought the action pursuant to 42 U.S.C. §1983, alleging that the defendants violated his constitutional rights. The plaintiff complained of lack of access to a law library, his conditions of confinement, and inadequate medical care for a spider bite; he also asserted due process violations. In accordance with 28 U.S.C. §636(b)(1)(B), the matter was referred to United States Magistrate Judge Bana Roberts for initial proceedings.

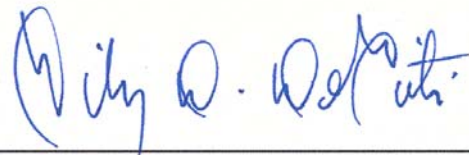
On August 15, 2007 the Magistrate Judge filed a Report and Recommendation [Doc. No. 139] in which she recommended that the Court grant the Motion for Summary Judgment of Defendant Bill Winchester [Doc. No. 116] because the record establishes that the plaintiff failed to exhaust all available administrative remedies prior to filing this action. Because Plaintiff's failure to exhaust the available administrative remedies also defeats his claims against all other defendants¹, the Magistrate Judge further recommended that the action be dismissed.

¹The additional defendants are Don Vonhagel and the Garfield County Sheriff's Department. The record reflects that the plaintiff initially attempted to serve Don Vonhagel, but service was never completed. Although the Garfield County Sheriff's Department was named in the caption of the Complaint, the plaintiff took no action regarding

In the Report and Recommendation, Judge Roberts expressly advised the parties of their right to file objections, and she scheduled a September 3, 2007 deadline for filing objections. She further advised the parties that failure to timely object to the Report and Recommendation would constitute a waiver of their right to appellate review of the factual findings and legal conclusions set forth therein.

The September 3, 2007 deadline has expired, and no party has filed an objection. Accordingly, the Report and Recommendation [Doc. No. 139] is adopted as though fully set forth herein. As explained in detail in the Report and Recommendation, the record establishes that the defendant Bill Winchester is entitled to judgment because the plaintiff failed to fully exhaust the administrative remedies available to him prior to filing this action. Therefore, the Motion for Summary Judgment of Bill Winchester [Doc. No. 116] is GRANTED. Furthermore, the failure to exhaust administrative remedies also applies to all claims asserted by the plaintiff against the other named defendants who were never served with process. Accordingly, the action is DISMISSED as to those defendants. Finally, the plaintiff's motions for appointment of counsel [Doc. Nos. 115 and 132] are DENIED as moot.

IT IS SO ORDERED this 9th day of October, 2007.



TIMOTHY D. DEGIUSTI
UNITED STATES DISTRICT JUDGE

service of summons on that entity.